

AUG 03 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

MARIA ISABEL GARFIAS SOTO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 05-76731

Agency No. A95-565-063

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 24, 2006 **

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Maria Isabel Garfias Soto, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review for abuse of discretion the denial of a motion to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Garfias Soto's motion to reopen because she failed to demonstrate the evidence she submitted was previously unavailable. *See* 8 C.F.R. §§ 1003.2(a) and (c); *Bhasin v. Gonzales*, 423 F.3d 977, 984 (9th Cir. 2005).

In light of this holding, we do not reach the government's contention that we lack jurisdiction to review the BIA's additional conclusion that the evidence did not show its declarant possessed sufficient expertise.

PETITION FOR REVIEW DENIED.